



BOARD OF APPEALS  
Enid Starr, Co-Chair  
Jesse Geller, Co-Chair  
Robert De Vries

# *Town of Brookline*

## *Massachusetts*

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 070065

Petitioners, Mark Yoon and Grace Lee, applied to the Building Department for a permit to convert the basement of the home at 214 Mason Terrace into habitable space. The application was denied and an appeal taken to this Board.

On December 13, 2007 the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed January 24, 2008 at 7:00 p.m., 2<sup>nd</sup> floor, Main Library, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published January 1 and 10, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE  
MASSACHUSETTS  
BOARD OF APPEALS  
NOTICE OF HEARING

**Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:**

Petitioner: **MARK YOON and GRACE LEE**  
Location of Premises: **214 MASON TER BRKL**  
Date of Hearing: **01/24/2008**  
Time of Hearing: **07:00 p.m.**  
Place of Hearing: **Main Library, 2<sup>nd</sup> fl.**

A public hearing will be held for a special permit and/or variance from:

- 1) 5.20; Floor Area Ratio; Variance Required.
- 2) 5.22.1. d; Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units. Variance Required.
- 3) 5.43; Exceptions to Yard and Setback Regulations; Special Permit Required.
- 4) 5.50; Front Yard Requirements; Variance Required.
- 5) 5.51; Projections into Front Yards; Variance Required.
- 6) 5.60; Side Yard Requirements; Variance Required.
- 7) 5.61; Projections into Side Yards; Variance Required.
- 8) 8.02.1. a; Alteration or Extension; Special Permit Required.
- 9) 8.02.2; Alteration or Extension; Special Permit Required.

Of the Zoning By-Law to convert the basement into habitable space to be combined with the first floor unit including exterior alterations such as larger pane windows, egress wells and a bulkhead addition for access per plans at **214 MASON TER. BRKL.**

Said Premise located in a S-7 District.

*Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.*

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.*

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Present at the hearing was Chair, Jesse Geller and Board Members, Anna Christina Wolfe and Mark Allen. The owner was also present and was represented by Mr. Scott M. Vaughn, architect, of Vaughn Associates, 124 Mt. Auburn Street, Suite 2008N, Cambridge, MA 02138.



Mr. Vaughn described the subject property at 214 Mason Terrace as a 3-story, two-family house located near Winchester Path on Corey Hill and further provided a description of the neighborhood. He said that his client's house is a pre-existing two-family in a single family zoning district on an oversized lot. Mason Terrace traverses a steep slope, which influences the siting for the homes in this area. The dwelling structure at 214 Mason Terrace is situated towards the front of the lot, which lot steeply slopes upward from the street towards the rear of the property. A free standing shed is located within the side yard set back of the property. An existing detached two-car garage is located within the front yard setback of the property. The surrounding neighborhood consists of mostly single and some two-family homes of similar scale and style.

Mr. Vaughn said that the petitioner, Mark Yoon, is proposing to convert the basement at 214 Mason Terrace into habitable space, to be combined with the first floor unit. The conversion of the basement will result in an increase of 1,262 s.f. of habitable space, and will include the creation of two bedrooms, two bathrooms and a large home office. The total habitable space of the home after conversion will be 5,275 s.f. Six new windows and window wells will be installed. A copy of the product materials with a picture of the type of window to be installed was circulated to the Board and submitted into the record of the Hearing as Exhibit A. Access to the first floor will be gained through an existing interior stairwell, and a new stair enclosure with a door will replace the existing bulkhead doors to give access to the rear yard. The existing rear bathroom window will be relocated to provide for the new stair enclosure. He said that Mr. Yoon and his family reside on the first floor and his daughter and her family reside above, in the second unit.

Mr. Vaughn stated that if his client's home was a single family and therefore conforming as to use, they could do the proposed work as of right under Section 5.22.2. Because the home is pre-

existing non-conforming, his clients needed relief from the dimensional requirements of the bylaw and he believed such relief could be granted under Section 5.43. He said his clients are proposing to provide additional landscaping on their lot as a counter-balancing amenity as required under this section. He also stated that the petitioner needs relief under Section 8.02.2 because the structure is pre-existing, non-conforming as to use and dimensional requirements.

The Chairman then asked if there were any members of the public who wish to speak in support or opposition to the Petitioner's proposal; no one responded in opposition.

Board Member Allen asked the architect about the use of pre-fabricated window well enclosures verses poured concrete or some other masonry assembly. The architect stated that the proposed windows have been used for some time in the industry, perform satisfactorily and are more inexpensive than the traditional type enclosure. He added that the enclosures would be almost flush with the surrounding grade and not be visible to those passing-by the home. Mr. Allen asked about moving the free standing shed which currently does not comply with the by-law. The applicant responded that it could be moved if directed by the Board. Mr. Allen inquired about the counter-balancing amenities that the petitioner intends to provide to meet the requirements of Section 5.43. Mr. Vaughn responded that additional landscaping would be provided to ameliorate the effect of the window wells and the secondary doorway installed in the bulkhead enclosure.

Board Member Wolfe asked whether the secondary doorway would eliminate the exiting bathroom window and the petitioner responded that the existing window would have to be reduced in size.



The Chairman asked whether there were other two-family homes in the neighborhood and a neighbor from 217 Mason Terrace, Barbara Shreiber, responded that there were others. Mr. Hitchcock, representing the building department, offered that portions of Mason Terrace are zoned two-family as well as single-family. The Chairman also asked how the petitioner calculated the FAR and whether the calculation accounted for the mechanical space in the basement. Mr. Vaughn verified that the net habitable space after conversion would be 5,275 s.f.

Adam Serafin, Planner, presented the findings, relief required and Planning Board report:

#### **Section 5.20 – Floor Area Ratio**

	<b>Allowed</b>				
	<b>By Right</b>	<b>By Basement Conversion</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>F.A.R</b>	0.35 (100%)	<b>0.525</b> (150%)	0.35 (100%)	<b>0.46</b> (132%)	<b>None*</b>
<b>Floor Area (s.f.)</b>	3,998	5,997	4,013	5,275	-

\*Under section 5.22.2, conversions of attics or basements to habitable space shall be allowed as of right, so long the total resulting gross floor area is no more than 150% of the total permitted floor area for the district, and any exterior modifications made to the structure to accommodate the conversion shall be subject to the façade design review process of section 7.06.1.

#### **Section 5.22.1.d – Exceptions to Maximum Floor Area Ratio (FAR) Regulations**

Exterior modifications to accommodate an exterior addition or interior conversion shall include without limitation the addition of a dormer, penthouse, cupola, windows, doors or the like. Such modifications shall also not conflict with any other provisions of the Zoning By-law. Although the proposal meets FAR requirements for conversion of basement space (150% of FAR), the creation of the new window wells conflicts with side and front yard requirements, which can be waived by special permit under **section 5.43**.

#### **Section 5.50 – Front Yard Requirements**

#### **Section 5.51 – Projections into Front Yards**

#### **Section 5.60 – Side Yard Requirements**

#### **Section 5.61 – Projections into Side Yards**

<b>Dimensional Requirements</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Front Yard Setback</b>	30 feet	28.5 feet	28.5 feet	Special Permit**
<b>Side Yard Setback</b>	20 feet	9 feet	9 feet	Special Permit**
<b>Projection into Side Yards</b>	1 foot into side yard	0 feet	6.6 feet	Special Permit**



\*\* Under Section 5.43, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The applicant has stated he will be providing landscaping as a counterbalancing amenity.

**Section 8.02.1a – Alteration or Extension**

**Section 8.02.2 – Alteration or Extension**

A special permit is required to alter a non-conforming structure.

Mr. Serafin said that the Planning Board supports this proposal to convert the basement at 214 Mason Terrace into habitable space. The conversion will require minimal changes to the exterior of the structure, and will not negatively impact the surrounding neighborhood. Therefore, the Planning Board recommends approval of the plans, titled “214 Mason Terrace Renovation” by Scott M. Vaughn of Vaughn Associates Architecture and dated October 29, 2007, and the site plan, titled “Plot Plan – 214 Mason Terrace” by John W. McEachern of Bowditch & Crandall, Inc., dated October 24, 2007, subject to the following conditions:

- 1. Prior to the issuance of a building permit, plans indicating the materials and details of the basement windows and window wells shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 2. Prior to issuance of a building permit, a final landscaping plan, indicating all counterbalancing amenities, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 3. Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

The Chairman then called upon Frank Hitchcock, Plan Examiner. Mr. Hitchcock spoke on behalf of the Building Department. Mr. Hitchcock stated that all the relief required for this proposal is minimal and could be granted by special permit. He said that: (1) the floor area ratio may be increased as proposed by the petitioner as of right under the by-law so long as any exterior modifications do not conflict with any provision of the by-law; and (2) a special permit under

Section 5.43, may waive setback requirements if counterbalancing amenities are provided

removing any such conflicts under the by-law. The alterations trigger review under the front, side and projection requirements of the by-law. He said that Section 8.02.1 provides that any use or structure housing a use that is pre-existing non-conforming is subject to a special permit under the provisions of Article IX. Because the structure is pre-existing, non-conforming, a special permit is required under Section 8.02.2 to alter a non-conforming condition, other than use. Mr. Hitchcock said that the Building Department had no objection to the proposal, the relief required or the conditions recommended by the Planning Board.

Mr. Allen was concerned about the counterbalancing amenities and the lack of a specific plan. It was explained that the Planning Department would review the plan as one of the proposed conditions and be sure that the counter-balancing amenity would, in a generic fashion, be related to and ameliorate the conditions giving rise to the relief sought, being the window wells and the secondary doorway located in the bulkhead enclosure to assuage those changes. There was a discussion about moving the shed to a more conforming location and the Board determined that the shed did not have to be moved.

The Board, having deliberated on this matter and having considered the foregoing testimony, decides that the conditions of Section 9.05 have been met and that it is desirable to grant the Special Permits under Section 5.43, Section 8.02.1 and Section 8.02.2 of the Zoning Bylaw. The Board makes the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.



- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Therefore, the Board voted unanimously to grant all the Special Permit relief with the conditions recommended by the Planning Board, being the following:

1. Prior to the issuance of a building permit, plans indicating the materials and details of the basement windows and window wells shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, a final landscaping plan, indicating all counterbalancing amenities, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

RECEIVED  
TOWN OF BROOKLINE  
REGISTRARS OF VOTERS

08 FEB 22 PM 12:00

Unanimous Decision of  
the Board of Appeals

Filing Date: February 22, 2008

By: \_\_\_\_\_

*Jesse Geller*  
Jesse Geller, Chairman

A True Copy  
ATTEST:

*Patrick J. Ward*  
Patrick J. Ward  
Clerk, Board of Appeals